

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	1:07-65-cr-06 SEB-KPF
vs.)	
)	
ERIC GUDE,)	
)	
Defendant.)	
)	
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UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	1:07-66-cr-08 SEB-KPF
)	
JOSE MENDOZA BARRAGAN,)	
)	
Defendant.)	

ORDER DENYING GOVERNMENT’S MOTION TO CONSOLIDATE

The Court, being duly advised, hereby **DENIES** the Government’s Motion to Consolidate for trial the above-referenced criminal cases involving, respectively, Defendants Barragan and Gude, for the reason that the likelihood of prejudice to Gude in being joined for trial with Barragan outweighs the inconvenience to the Government and to the Court of separate trials.

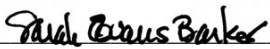
Had the two defendants been indicted together, the Court likely would not have severed them for trial. However, because they were indicted separately (for reasons not entirely clear to the Court but certainly not subject to challenge by us) and, in addition, they are not alleged to have been co-conspirators of one another, and because the factual overlaps and connections in their alleged

criminal activities as described by the Government in its motion are relatively insubstantial and that their connection would come into evidence, assuming its admissibility, pursuant to Rule 404(b) and not through direct evidence, the Court concludes in its discretion that each case should continue to be litigated separately and resolved separately, either by individual jury trials or by the Defendant's respective pleas of guilty.

The trial of Defendant Barragan remains set for Monday, July 21, 2008, at 9:30 a.m. in Room 216 of the United States Courthouse. The trial of Defendant Gude will be reset by separate order.

IT IS SO ORDERED.

Date: 06/18/2008


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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